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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/383,763	08/26/1999	ROLAND KUHN	9432-000079	7013

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EXAMINER

ARMSTRONG, ANGELA A

ART UNIT	PAPER NUMBER
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2654

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DATE MAILED: 08/12/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/383,763

Applicant(s)

KUHN ET AL.

Examiner

Angela A. Armstrong

Art Unit

2654

– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 5/27/2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-8, 10 and 12-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8, 10 and 12-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Continued Examination Under 37 CFR 1.114*

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on April 24, 2003 has been entered.

### *Double Patenting*

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 1-8, 10, and 12-15 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-7 of Davis et al, U.S. Patent No. 6,330,557, in view of Wise (US Patent No. 5,884,262).

Art Unit: 2654

4. Regarding claims 1, 3, 4, 8, 10, and 15, Davis claims an electronic program guide searching system. Specifically, Davis claims,

A speech recognizer receptive of a user's input speech request for information about a program at claim 1;

A natural language parser coupled to said speech recognizer for extracting a semantic representation of the user's request for information at claim 5;

A data store for storing a representation of an electronic programming guide, said programming guide having an indicator identifying the program being enjoyed by said user at the time of said user's request at claim 1;

Search engine to issue at least one search request based on said semantic representation and using the representation of an electronic program guide to constrain said search request to identify useful information relevant to determining what information the user is interested in retrieving at claims 1 and 7;

Filtering the results based on the electronic program guide at claim 7.

Davis does not specifically claim a network connection for accessing network-resident information. Refer to Wise who teaches a computer network audio access and conversion system which provides for network connections at Figure 2, element 15; col. 3, lines 51-61; recognition of commands or search request of keywords or phrases (col. 4, lines 13-16); accessing predetermined internet sites (col. 6, lines 40-41; col. 7, lines 7-9) and submitting a search request via an Internet search engine to find information related to the subject keyword or phrases (col. 6, lines 40-51).

Art Unit: 2654

Therefore, it would have been obvious to one of ordinary skill at the time of the invention to modify the system of Davis to implement network connections for internet access capabilities as taught by Wise, for the purpose of providing flexible access to various types of computer networks and information.

Regarding claims 2 and 12, Davis claims a speech synthesizer coupled to said search results processor for providing the user with synthesized speech information about an audio/video program at claim 2.

Regarding claim 5, Davis claims search engine includes a user profile data store for storing historical data about prior requests by the user for information at claim 7.

Regarding claims 6 and 13, Davis claims search engine includes mechanism for updating the contents of said electronic program guide data store at claim 6.

Regarding claims 7 and 14, Davis claims the natural language parser includes a set of predefined goal-oriented grammars at claim 5.

### ***Claim Rejections – 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 2654

5. Claims 1-8, 10 and 12-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wise et al (US Patent No. 5,884,262) in view of Birdwell et al (US Patent No. 6,108,706) and Brodsky (US Patent No. 5,809,471).

6. Regarding claims 1-8, 10 and 12-15, Wise et al teaches a computer network audio access and conversion system which implements

Network connection at Figure 2, element 15; col. 3, lines 51-61

Recognition of commands or search requests of subject words or phrases at col. 4, lines 13-16

Interpretation of recognized speech or voice commands at col. 6, lines 20-33

Submitting a search request via an Internet search engine to find information related to the subject word or phrase at col. 6, lines 40-51

Providing search results to the user at col. 6, lines 52-55

Providing synthetic speech output based on search results at col. 7, lines 37-41

Accessing predetermined Internet sites at col. 6, lines 40-41 and col. 7, lines 7-9

User profile at col. 8, line 67 – col. 9, line 12

Predefined vocabulary at col.2, lines 50-57.

Although Wise et al provide various examples of possible Internet sites or information requested by the user (weather, traffic information, or sports information), they do not provide an example of program guides.

In a similar field of endeavor, Birdwell et al teach a system of providing announcements of upcoming broadcast information, which implements user profiles and accessing Internet sites and based on the user profiles (created from user behavior patterns or user defined information)

Art Unit: 2654

the system can filter information to select broadcast announcement information to provide to the user broadcast information of interest (Abstract; col. 1, line 51 – col. 2, line 28).

Therefore, it would have been obvious to one of ordinary skill at the time of invention to apply the information access system of Wise et al to access and obtain broadcast information, as taught by Birdwell et al, for the purpose of obtaining user specified broadcast information in an audio format.

Birdwell does not specifically teach that the programming guide indicates the program currently being enjoyed by the user at the time of the user's request.

In a similar field of endeavor, Brodsky teach a method and apparatus for retrieving additional or supplemental information pertaining to an item just seen or words just heard. The system stores information in memory in a menu format, which includes, for example, the name of the movie being viewed, as well as other information (col. 7, lines 2-5). Brodsky teaches that this stored information may be used to pin point program relevant database segments (col. 7, lines 5-7).

Therefore, it would have been obvious to one of ordinary skill at the time of the invention to modify the system of Wise to provide for an electronic programming guide, as taught by Birdwell, and to provide for an indication of the program being viewed by the user, as suggested by Brodsky, for the purpose of efficiently obtaining relevant program segments or information, as suggested by Brodsky.

Wise et al do not specifically teach using constraining the search request to identify useful information relevant in determining what information the user is interested in retrieving or receiving grammars that are downloaded through the network connection. Refer to Brodsky who

Art Unit: 2654

teach a method and apparatus for retrieving additional or supplemental information pertaining to an item just seen or words just heard. At col. 5, lines 48-63, Brodsky teaches that the system allows for searching constraints based upon the setting of priorities of items or keywords, and specifically indicates a high priority maybe assigned to words that identifying the program itself, which reads on “constraining the search request to identify useful information relevant in determining what information the user is interested in retrieving.” The Brodsky retrieval system includes a recognition system, and a user’s spoken request for information is matched against a continually changing dictionary. The continually changing dictionary is created from items or keywords extracted from the most recently received program. Brodsky teach that a continually changing dictionary can be created in real time and is much less complicated and more simple to implement in terms of processing time and accuracy (Abstract, col. 3, lines 52 continuing to col. 4, line 18).

Therefore, it would have been obvious to one of ordinary skill at the time of the invention to modify Wise et al to implement constrained searching via continually changing dictionaries, as taught by Brodsky, for the purpose of reducing processing time and improving accuracy, as suggested by Brodsky.

### ***Response to Arguments***

7. Applicant’s arguments filed April 24, 2003 have been fully considered but they are not persuasive.

8. Applicant argues that references fail to teach using an electronic program guide to constrain a search request to identify useful information relevant in determining what



- Art Unit: 2654

information the user is interested in retrieving, and filtering received search results based on the useful information. The Examiner disagrees. Brodsky teaches retrieving additional or supplemental information pertaining to an item just seen or words just heard. The system allows for searching constraints based upon the setting of priorities of items or keywords, and specifically indicates a high priority maybe assigned to words that identifying the program itself, which reads on “constraining the search request to identify useful information relevant in determining what information the user is interested in retrieving” and filtering said search results based on the electronic programming guide”, since the words identifying the program itself is information provided within the electronic program guide.

• Art Unit: 2654

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Angela A. Armstrong whose telephone number is 703-308-6258. The examiner can normally be reached on Monday-Thursday 7:30-5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richemond Dorvil can be reached on (703) 305-9645. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9314 for regular communications and 703-872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-0377.

Angela A. Armstrong  
Examiner  
Art Unit 2654

AAA  
August 7, 2003

  
Richemond Dorvil  
Primary Examiner